

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Olubukola Ajayi	Team: Team # 4	CCRB Case #: 201106834	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Sat, 05/21/2011 6:40 AM	Location of Incident: Logan Street and Fulton Street	Precinct: 75	S.O.L. Expires: 11/21/2012		
Date/Time CV Reported Sat, 05/21/2011 6:47 AM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Thu, 05/26/2011 2:55 PM		

Complainant/Victim	Type	Home Address
1. R [REDACTED] S [REDACTED]	Victim	[REDACTED]
2. J [REDACTED] C [REDACTED]	Comp/Witness	[REDACTED]
3. S [REDACTED] G [REDACTED]	Victim	[REDACTED]
4. A [REDACTED] R [REDACTED]	Victim	[REDACTED]

Witness(es)	Home Address
1. T [REDACTED] M [REDACTED]	[REDACTED]

Subject Officer(s)	Shield	TaxID	Command
1. POM N [REDACTED] M [REDACTED]	[REDACTED]	[REDACTED]	075 PCT
2. POM E [REDACTED] M [REDACTED]	[REDACTED]	[REDACTED]	075 PCT
3. POM M [REDACTED] K [REDACTED]	[REDACTED]	[REDACTED]	075 PCT
4. POM B [REDACTED] C [REDACTED]	[REDACTED]	[REDACTED]	075 PCT
5. POM Daniel Ingber	05331	940283	075 PCT
6. Officers			
7. An officer			

Officer(s)	Allegation	Investigator Recommendation
A . POM Daniel Ingber	Discourtesy: PO Daniel Ingber spoke discourteously to A [REDACTED] R [REDACTED]	A . Substantiated
B . POM B [REDACTED] C [REDACTED]	Discourtesy: PO B [REDACTED] C [REDACTED] spoke discourteously to A [REDACTED] R [REDACTED]	B . Substantiated
C . Officers	Abuse of Authority: Officers questioned A [REDACTED] R [REDACTED]	C . Alleged Victim Uncooperative
D . An officer	Force: An officer struck A [REDACTED] R [REDACTED] with a baton.	D . Alleged Victim Uncooperative
E . Officers	Force: Officers hit A [REDACTED] R [REDACTED] against a vehicle.	E . Alleged Victim Uncooperative
F . An officer	Force: An officer used physical force against A [REDACTED] R [REDACTED]	F . Alleged Victim Uncooperative
G . POM N [REDACTED] M [REDACTED]	Abuse of Authority: PO N [REDACTED] M [REDACTED] threatened R [REDACTED] S [REDACTED] with the use of force.	G . Substantiated
H . POM N [REDACTED] M [REDACTED]	Abuse of Authority: PO N [REDACTED] M [REDACTED] stopped R [REDACTED] S [REDACTED]	H . Substantiated
I . POM E [REDACTED] M [REDACTED]	Abuse of Authority: PO E [REDACTED] M [REDACTED] issued a summons to R [REDACTED] S [REDACTED]	I . Substantiated
J . POM M [REDACTED] K [REDACTED]	Abuse of Authority: PO M [REDACTED] K [REDACTED] issued a summons to S [REDACTED] G [REDACTED]	J . Substantiated
K . POM M [REDACTED] K [REDACTED]	Discourtesy: PO M [REDACTED] K [REDACTED] spoke discourteously to S [REDACTED] G [REDACTED]	K . Unsubstantiated

Officer(s)	Allegation	Investigator Recommendation
L . POM N [REDACTED] M [REDACTED]	Other: PO N [REDACTED] M [REDACTED] failed to prepare a memo book entry as required by Patrol Guide Procedure 212-08.	L . Other Misconduct

Case Summary

On May 24, 2011, J. C. called 911 to file a complaint. Mr. C. was connected to IAB's command center, where the following complaint (original IAB log #) was filed (encl. 39). The complaint was referred to the CCRB on May 26, 2011 (encl. 40-41).

At approximately 6:40 a.m. on May 21, 2011, Mr. C. and his friends (R. S. and S. G.) encountered PO N. M., PO E. M., PO M. K., PO B. C., and PO Daniel Ingber, all of whom are from the 75th Precinct stationhouse, at the corner of Logan Street and Fulton Street in Brooklyn. The following allegations resulted from the interaction:

- **Allegation A – Discourtesy:** PO Daniel Ingber spoke discourteously to A. R.
- **Allegation B – Discourtesy:** PO B. C. spoke discourteously to A. R. Because it was determined by a preponderance of the evidence that PO Ingber and PO C. used discourteous language that served no legitimate law enforcement objective, it is recommended that **Allegations A and B** be closed as **substantiated**.
- **Allegation C – Abuse of Authority:** Officers questioned A. R.
- **Allegation D – Abuse of Authority:** An officer struck A. R. with a baton.
- **Allegation E – Abuse of Authority:** Officers hit A. R. against a vehicle.
- **Allegation F – Abuse of Authority:** An officer used physical force against A. R. Since Mr. R. did not provide a formal statement to the CCRB and the video recordings for the incident did not capture these allegations, it is recommended that **Allegations C through F** be closed as **victim uncooperative**.
- **Allegation G – Abuse of Authority:** PO N. M. threatened R. S. with the use of force. It has been determined by a preponderance of the evidence that PO M. gratuitously threatened to use force against Mr. S. Therefore, it is recommended that **Allegation G** be closed as **substantiated**.
- **Allegation H – Abuse of Authority:** PO N. M. stopped R. S. The investigation determined that PO M. stopped Mr. S. without reasonable suspicion that he was committing a crime. Therefore, it is recommended that **Allegation H** be closed as **substantiated**.
- **Allegation I – Abuse of Authority:** PO E. M. issued a summons to R. S. The investigation determined that PO M. did not have reasonable cause to believe that Mr. S. committed the violation for which he was issued a summons. Therefore, it is recommended that **Allegation I** be closed as **substantiated**.
- **Allegation J – Abuse of Authority:** PO M. K. issued a summons to S. G. The investigation determined that PO K. did not have reasonable cause to believe that Mr. G. committed the violation for which he was issued a summons. Therefore, it is recommended that **Allegation J** be closed as **substantiated**.
- **Allegation K – Discourtesy:** PO M. K. spoke discourteously to S. G. Because the CCRB could not determine by a preponderance of the evidence whether PO K. spoke discourteously to Mr. G. it is recommended that **Allegation K** be closed as **unsubstantiated**.
- **Allegation L – Other:** PO N. M. failed to prepare a memo book entry as required by Patrol Guide Procedure 212-08. PO M. did not document this incident in his memo book as required by Patrol Guide Procedure 212-08. Therefore, it is recommended that he be cited for **other misconduct**.

Results of Investigation

Video Footage Provided By Civilian

S■■■■ G■■■■ provided copies of the three separate video recordings that he took with his cell phone on the incident date (encl. 52-53). Two of the recordings show the physical and verbal interaction between the officers that responded to the scene and the victims in this case. The third recording was of a Hispanic male in black and white striped sweater (identified through investigation as J■■■■ C■■■■ making a report to a 911 operator about the incident.

The first video recording, which was created at 6:31 a.m. on May 21, 2011, shows a uniformed white or Hispanic officer with dark colored hair (identified through investigation as PO K■■■■) standing directly behind a Hispanic male wearing a black hat, black long sleeve shirt, gray sweatshirt, and black sneakers (identified through investigation as A■■■■ R■■■■ PO K■■■■ removed a black wallet from Mr. R■■■■ pants as Mr. R■■■■ faced a dark colored car, which was parked across the street from a 99 cent store. At this point, a uniformed white male officer with blond hair, wearing reading glasses (identified through investigation as PO Ingber) was standing to the left of PO K■■■■ A uniformed or white male officer with dark hair (identified through investigation as PO C■■■■) stood directly behind PO K■■■■ as PO C■■■■ spoke to a Hispanic female, wearing a blue shirt, blue jeans, and blue and white sneakers (identified through investigation as T■■■■ M■■■■). When Mr. R■■■■ asked PO Ingber what he did wrong at twenty-six seconds into the recording, PO Ingber said "Shut your mouth. Do you want to go to jail? Shut your fucking mouth and stand there. You hear me." When Mr. R■■■■ asked PO C■■■■ at one minute and five seconds into the recording why an unspecified officer hit him, PO C■■■■ said, "You want me to answer your question, but you would not shut up for two fucking minutes, asshole." At one minute, twenty-two seconds into the recording, PO C■■■■ tapped Ms. M■■■■ on her shoulder and motioned for her to come with him. At which, point, PO C■■■■ Ms. M■■■■ and PO Ingber walk out of the camera view.

The second video recording, which was created at 6:33 a.m. on May 21, 2011, started right before Mr. R■■■■ was placed under arrest. The video began with two uniformed white male officers (identified through investigation as PO Ingber and PO M■■■■) approaching Mr. R■■■■ A voice in the background can be heard saying, "he's about to get tackled." The officers place Mr. R■■■■ who is compliant, against a car and handcuff him. A voice in the background in a normal voice level says, "told him to shut the fuck up." Another voice then says, "because he was talking it up." Then an unidentified voice says, "Let me shut up before I get locked up." One of the unidentified voices goes on to say, "I got him on video. He can't lock me up for that shit. He crazy." PO K■■■■ approaches PO Ingber and PO M■■■■ as they were arresting Mr. R■■■■ and assists them. Throughout the above noted conversation, the officers do not look at the people who are speaking in the background or say anything to them. Mr. R■■■■ does not acknowledge or respond to anything that the people in the background were saying. While Mr. R■■■■ was being placed under arrest, one of the voices in the background says, "all because he was talking." One of the voices in the background becomes louder and says, "he's not even fighting. Why are you holding his neck like that?" PO M■■■■ who had one hand placed on Mr. R■■■■ arm as PO Ingber and PO K■■■■ were handcuffing Mr. R■■■■ looked back in the direction from where the voices were coming from and says, "Shut your mouth or you'll go next to him." In response, the voices in the background say, "Ahh," in a medium volume. PO M■■■■ who is the only officer in the recording with a baton on his person, takes out his baton and releases Mr. R■■■■ who is still being handcuffed by PO Ingber and PO K■■■■ PO M■■■■ walks approximately 10 feet in the direction of the voices where the three men (identified via investigation as Mr. S■■■■ Mr. C■■■■ and Mr. G■■■■) are standing. PO M■■■■ says, as he approaches, "You want to get tough with me?" Mr. C■■■■ who was wearing a black and white striped sweater, stands in between PO M■■■■ and Mr. S■■■■ who was wearing a black hat, checkered shirt and jeans, and

says, "Officer, officer, I got it." One of the voices in the background then says, "See that? I got that right here." The camera then showed Mr. S [REDACTED] talking without moving his body. It is hard to hear what Mr. S [REDACTED] said at this point. Mr. C [REDACTED] then tells Mr. S [REDACTED] to "shut the fuck up." A street vendor with a shopping cart crossed the video screen, but this vendor does not take note or stop and look at what was happening. Mr. C [REDACTED] turns to PO M [REDACTED] and said, "I got this." The camera then shows that Mr. S [REDACTED] is still talking, but it is unclear what Mr. S [REDACTED] said at this point. PO M [REDACTED] approaches Mr. S [REDACTED] and says, "don't interfere when we're doing our job. You understand?" Mr. C [REDACTED] responds saying, "You're right. You're right." PO M [REDACTED] holds up his baton or nightstick and tells Mr. S [REDACTED] "You're going to get your teeth knocked down your throat. You think I'm wrong? You think I'm wrong?" Mr. S [REDACTED] replied, "you gonna do it?" PO M [REDACTED] responded by saying, "I'm gonna do it." Mr. S [REDACTED] responds, "knock my teeth out." PO M [REDACTED] then pushes Mr. C [REDACTED] out of his way and grabs Mr. S [REDACTED] turns Mr. S [REDACTED] around, and places Mr. S [REDACTED] against a gate. When Mr. C [REDACTED] got close to PO M [REDACTED] as he was trying to place Mr. S [REDACTED] under arrest, a uniformed Hispanic male officer with black hair and glasses on (identified through investigation as PO M [REDACTED] stood in front of Mr. C [REDACTED] and watched as PO M [REDACTED] handcuffed Mr. S [REDACTED] PO M [REDACTED] grabs Mr. S [REDACTED] hands and says, "OGA this guy" to PO K [REDACTED] who walked into the camera's view as he approaches PO M [REDACTED] PO M [REDACTED] then pointed his baton in the direction of the camera and said something inaudible. At this point, PO K [REDACTED] turned in the direction of the camera. The recordings do not show PO M [REDACTED] poking Mr. S [REDACTED] in the stomach with a baton prior to placing him under arrest.

Civilian Statements

Complainant/Victim: J [REDACTED] C [REDACTED]

J [REDACTED] C [REDACTED] is a 26-year-old Hispanic male, who is 5'9" feet tall, weighs 170 pounds, and has black hair and brown eyes. At the time of the interview he was unemployed.

Phone Statement to IAB

J [REDACTED] C [REDACTED] provided a phone statement to IAB on May 21, 2011 (encl. 39 & 111). Mr. C [REDACTED] called 911 to file a complaint and was connected to IAB by the 911 operator. He reported that when his friend, R [REDACTED] S [REDACTED] made a comment to some officers because he did not like how they were treating an unknown individual (identified through investigation as A [REDACTED] R [REDACTED] an officer (identified through investigation as PO N [REDACTED] M [REDACTED] of the 75th Precinct) approached Mr. S [REDACTED] with his nightstick drawn and said, "If you don't shut up I'll break your fucking teeth." Mr. C [REDACTED] reported that he got in between Mr. S [REDACTED] and PO M [REDACTED] and told Mr. S [REDACTED] to shut up. He also told PO M [REDACTED] that he had Mr. S [REDACTED] under control. When Mr. S [REDACTED] told PO M [REDACTED] that he would like to see him break his teeth in, PO M [REDACTED] pushed Mr. C [REDACTED] out of the way and arrested Mr. S [REDACTED] Mr. C [REDACTED] said another friend of his, S [REDACTED] G [REDACTED] recorded the interaction between Mr. R [REDACTED] Mr. S [REDACTED] and the officers on the scene. Mr. C [REDACTED] also said PO K [REDACTED] with tax ID # [REDACTED] issued Mr. G [REDACTED] summons # [REDACTED] for disorderly conduct because he was recording the interaction between Mr. S [REDACTED] and the officers. When Mr. C [REDACTED] placed Mr. G [REDACTED] on the line, Mr. G [REDACTED] said PO M [REDACTED] told PO K [REDACTED] to grab the person (identified through investigation as Mr. C [REDACTED] with the phone. PO K [REDACTED] then grabbed Mr. G [REDACTED] and said, "Give me your fucking ID." IAB advised Mr. C [REDACTED] not to go to the precinct because he may escalate the situation and may be arrested.

CCRB Testimony

Mr. C [REDACTED] was interviewed at the CCRB on July 12, 2011 (encl. 62-67). He provided a phone statement to the CCRB on July 6, 2011 (encl. 61). His statements were partially consistent.

At 6:40 p.m. on May 21, 2011, J. C. drove his two friends, S. G. and R. S. to El Gran Mar De Plata, a 24-hour restaurant that is located at Fulton Street in Brooklyn. When they got to the intersection of Logan Street and Fulton Street, Mr. C. observed a group of seven to eight uniformed police officers standing in front of the restaurant along with four civilians. The officers told Mr. C., Mr. S. and Mr. G. that the restaurant was closed because of an earlier incident inside the restaurant. Mr. C., Mr. S. and Mr. G. then went to buy food from a food cart that was located one building away from the restaurant. As Mr. C., Mr. G. and Mr. S. were eating their food close to the wall that was next to the food cart, Mr. C. saw an unknown male (identified through investigation as A. R. being “harassed” by some officers. Mr. C. did not indicate how these officers were harassing Mr. R. nor was he asked. Mr. G. recorded the interaction between the officers and Mr. R. on his cell phone. An officer who Mr. C. described as a white male officer with blond hair, who was 34 or 35 years old, 5’9” tall but was identified through the video recording as PO N. M. of the 75th Precinct grabbed Mr. R. by his arms, placed Mr. R. against a car and handcuffed him. An officer who Mr. C. described as a white male officer with black hair, who was in his 30s, 5’9” tall but was identified through the video recording as PO C. Ingber of the 75th Precinct assisted PO M. in grabbing Mr. R. by his arms, placing Mr. R. against a car and handcuffing Mr. R. Mr. R. did not resist as he was being placed under arrest. An officer who Mr. C. described as a white male with a moustache, goatee, salt and pepper hair, who was in his late 30s to early 40s, 5’9” tall, but was identified through the video recording as PO M. K. of the 75th Precinct, pushed Mr. R. head against the trunk of the car. Mr. S. asked the officers why they were harassing Mr. R. PO M. said, “You be quiet before you be the next one to get locked up,” or “You be quiet before you would be lying next to him.” When Mr. S. said “ah,” PO M. grabbed his baton, but did not take it out, as he walked towards Mr. S. and said, “You better be quiet before I push your teeth in.” However when Mr. C. reported the incident to IAB, he said PO M. drew his baton as he approached Mr. S. and allegedly told Mr. S. “If you don’t shut up I’ll break your teeth.” Mr. S. repeatedly asked PO M. if he was going to push his teeth in. PO M. told Mr. S. to keep it up and he would see. Mr. C. stepped in between Mr. S. and PO M. and told PO M. that he had Mr. S. under control. He also told Mr. S. to be quiet. Mr. G. recorded the interaction between the officers and Mr. S.

When Mr. S. told PO M. that he would like to see him push his teeth down his throat, PO M. placed his hand on the back of Mr. C. shoulder and pushed him to the side. PO M. grabbed Mr. S. somewhere on his body and pushed him against the gate of a closed shop as he prepared to handcuff him. Mr. C. walked around PO M. and tried to talk to PO M. as he stood to PO M. left. PO E. M. of the 75th Precinct, who Mr. C. described as a Hispanic male officer, who wore reading glasses, was 5’8” tall or more and who Mr. C. identified as Mr. S. arresting officer and referred to as PO “Surrano,” led him away and told him not to get involved. When PO Ingber approached PO M. to assist him in placing Mr. S. under arrest, PO M. told PO Ingber to get the guy with the camera. At this point, PO K. was with Mr. R. who PO K. had referred to as an “asshole” and had told to “shut up.” Mr. C. did not know when in the sequence of events PO K. referred to Mr. R. as an “asshole” and told him to “shut up.” PO Ingber approached Mr. G. led him to an RMP and placed him against it. Mr. G. cell phone fell to the floor as he was leaning against the RMP. PO Ingber did not knock the cell phone out of Mr. G. hands. Mr. C. did not hear what transpired between PO Ingber and Mr. G. He said Mr. G. told him at some point that PO Ingber had asked him for his identification and Mr. G. provided his identification to PO Ingber. Mr. G. was

issued a summons, but Mr. C [REDACTED] did not see the person that wrote or issued the summons to Mr. G [REDACTED]. Mr. C [REDACTED] did not hear PO Ingber using any obscenities when he asked Mr. G [REDACTED] for his identification. PO M [REDACTED] placed Mr. S [REDACTED] in a RMP and transported him to the 75th Precinct stationhouse. Mr. C [REDACTED] called 911 to file a complaint and was connected to IAB by the 911 operator. After filing a complaint with IAB, Mr. C [REDACTED] drove Mr. G [REDACTED] to the stationhouse. When they got to the stationhouse, a white male officer with gray hair, chubby build, who was in his fifties approached them and told Mr. G [REDACTED] that he was aware of what happened and that Mr. S [REDACTED] will soon be released with a disorderly conduct summons.

Victim: S [REDACTED] G [REDACTED]

S [REDACTED] G [REDACTED] is a 29-year-old Hispanic male, who is 5'9" feet tall, weighs 370 pounds, and has black hair and brown eyes. At the time of the incident, he was employed as a

CCRB Testimony

Mr. G [REDACTED] was interviewed at the CCRB on June 21, 2011 (encl. 51-57). He provided a phone statement to IAB on May 31, 2011 (encl. 39 & 111). He provided phone statements to the CCRB on June 17, 2011, July 18, 2012, and July 19, 2012 (encl. 49-50 & 58-60). His statements were consistent with Mr. C [REDACTED] statement in regards to the circumstances that led him and his friends (J [REDACTED] C [REDACTED] and R [REDACTED] S [REDACTED] to [REDACTED] Fulton Street in Brooklyn.

As Mr. G [REDACTED] and his friends stood next to a food cart, Mr. G [REDACTED] heard a Hispanic male (identified through investigation as A [REDACTED] R [REDACTED] ask a white male officer with blondish buzz cut hair, husky build, who was 5'8" to 5'10" tall, weighed 200 pounds and who was identified through investigation as PO N [REDACTED] M [REDACTED] of the 75th Precinct, why he and the other officers on the scene harassed and beat him. Mr. G [REDACTED] recorded the interaction between PO M [REDACTED] and Mr. R [REDACTED] on his cell phone as he stood about ten to fifteen feet away (this portion of the incident is recorded in the second recording.) PO M [REDACTED] placed Mr. R [REDACTED] hand behind his back and threw him on the hood of a parked taxi cab in the presence of a white male officer with blond hair, moustache, glasses, who was 5'7" tall, weighed 180 pounds and who was identified through investigation as PO Daniel Ingber of the 75th Precinct. While Mr. R [REDACTED] was leaning on the taxi cab, PO M [REDACTED] twisted Mr. R [REDACTED] wrist around to hold him down. Meanwhile, PO M [REDACTED] K [REDACTED] of the 75th Precinct, who Mr. G [REDACTED] described as a uniformed white male officer, who weighed between 175 to 180 pounds, was 5'10" to 5'11" tall, and who Mr. G [REDACTED] identified by name from the summons that he was issued, pushed Mr. R [REDACTED] face on to the hood of the car.

Mr. S [REDACTED] asked PO M [REDACTED] why he was twisting Mr. R [REDACTED] arm. PO M [REDACTED] said, "Mind your business before you are here next to him (referring to Mr. R [REDACTED] When Mr. S [REDACTED] said "Oh, yeah," PO M [REDACTED] took out his baton and approached Mr. S [REDACTED]. Mr. C [REDACTED] stepped in between PO M [REDACTED] and Mr. S [REDACTED] and told PO M [REDACTED] that he had Mr. S [REDACTED] under control. Meanwhile, Mr. R [REDACTED] was being detained by PO Ingber and PO K [REDACTED]. PO M [REDACTED] waved the baton in Mr. S [REDACTED] face as he told him to shut up, mind his business and get the "fuck" out of here. PO M [REDACTED] threatened to knock Mr. S [REDACTED] teeth down his throat. When Mr. S [REDACTED] told PO M [REDACTED] to do it, PO M [REDACTED] pushed Mr. C [REDACTED] with his left hand out of his way. Mr. G [REDACTED] did not know where PO M [REDACTED] touched Mr. C [REDACTED] when he pushed him out of the way. A Hispanic male officer with a tan complexion, black hair, glasses, who was about 5'11" to 6'0" tall and who Mr. G [REDACTED] identified as PO E [REDACTED] M [REDACTED] of the 75th Precinct, stood to the left of PO M [REDACTED] but PO M [REDACTED] did not have any physical interaction with Mr. G [REDACTED]. Mr. S [REDACTED] and Mr. C [REDACTED]. PO M [REDACTED] grabbed Mr. S [REDACTED] by his left shoulder or left arm with his left hand and turned Mr. S [REDACTED] around. PO M [REDACTED] placed Mr. S [REDACTED] left arm behind his back and held on

to it as he grabbed the back of Mr. S [REDACTED] neck with his right arm. PO M [REDACTED] then pushed Mr. S [REDACTED] against the gate of a 99 cent store while still holding on to the back of Mr. S [REDACTED] neck and left arm. Mr. S [REDACTED] face made contact with the gate, but Mr. G [REDACTED] did not observe any injuries on Mr. S [REDACTED] person. PO M [REDACTED] placed Mr. S [REDACTED] right arm behind his back and pointed his baton at Mr. G [REDACTED] as he told PO K [REDACTED] to get Mr. G [REDACTED]

Mr. G [REDACTED] stopped recording the incident and dialed 911 on his phone. But before he was able to hit the send button, PO K [REDACTED] approached him, grabbed his right arm and told him to give him his identification. Mr. G [REDACTED] raised his arms up and asked PO K [REDACTED] what he needed his identification for since he was not doing anything wrong. PO K [REDACTED] asked him where the hell was his identification? When Mr. G [REDACTED] was reporting the case to IAB, he said PO K [REDACTED] told him, "Give me your fucking ID." Mr. G [REDACTED] said that it was in his back pocket. PO K [REDACTED] let go of Mr. G [REDACTED] right arm and Mr. G [REDACTED] placed his arm down and hit the send button on his cell phone. PO K [REDACTED] then placed Mr. G [REDACTED] right arm behind his back and in the process Mr. G [REDACTED] phone fell to the ground and "fell apart." When PO K [REDACTED] released Mr. G [REDACTED] arm, Mr. G [REDACTED] retrieved his identification from his back right pocket and handed it to PO K [REDACTED]. PO K [REDACTED] walked to an RMP. When he later approached Mr. G [REDACTED] he issued Mr. G [REDACTED] summons # [REDACTED] for disorderly conduct and told Mr. G [REDACTED] "get the fuck out of here before you wind up with your friend." Mr. G [REDACTED] asked Mr. C [REDACTED] to call 911 to file a complaint. Mr. C [REDACTED] complied and was connected to IAB by the 911 operator, where he then filed the complaint.

Victim: R [REDACTED] S [REDACTED]

R [REDACTED] S [REDACTED] is a 28-year-old Hispanic male, who is 5'4" feet tall, weighs 160 pounds, and has black hair and dark brown eyes. At the time of his interview, he was employed as a [REDACTED].

CCRB Testimony

Mr. S [REDACTED] was interviewed at the CCRB on June 15, 2011 (encl. 44-48). He provided a phone statement to the CCRB on May 31, 2011 (encl. 43). His statements were consistent, and he provided a statement that was consistent with Mr. C [REDACTED] and Mr. G [REDACTED] testimonies in regards to the circumstances that led them to be at the incident location.

On the incident date, Mr. S [REDACTED] saw a white male officer in his mid-thirties with dirty blond hair, heavy build, who was 5'6" or 5'7" tall and who was identified through investigation as PO N [REDACTED] M [REDACTED] of the 75th Precinct, grab the wrists of an unknown civilian, identified through investigation as A [REDACTED] R [REDACTED] and push Mr. R [REDACTED] against a car that was parked in front of the restaurant. PO M [REDACTED] K [REDACTED] of the 75th Precinct, who he described as a Hispanic male officer with spiky black hair, medium build, who was 5'9" tall and in his 30s, grabbed Mr. R [REDACTED] by his neck as Mr. R [REDACTED] laid on top of the car. When Mr. S [REDACTED] asked the officers why they were maltreating Mr. R [REDACTED] when he was not resisting, PO M [REDACTED] said, "Mind your fucking business. Do you want me to break your fucking teeth in?" Mr. C [REDACTED] Mr. G [REDACTED] PO K [REDACTED] PO Daniel Ingber of the 75th Precinct (a white male officer with dirty blond hair, medium build, who was 5'2" tall and in his late 20s to early 30s), and an officer that Mr. S [REDACTED] could not describe, but who was identified by the video recording as PO B [REDACTED] C [REDACTED] of the 75th Precinct, witnessed PO M [REDACTED] discourteous comment to Mr. S [REDACTED]. Mr. S [REDACTED] said an officer that he did not know, but who was identified by the video investigation as PO Ingber handcuffed Mr. R [REDACTED]. Mr. S [REDACTED] asked PO M [REDACTED] if he was going to talk to a civilian like that and Mr. C [REDACTED] told him to shut the "fuck" up several times.

When PO M [REDACTED] asked Mr. S [REDACTED] if he wanted to be a "smart ass" and if he wanted him to break his "fucking" teeth in, Mr. S [REDACTED] told him to go ahead. PO M [REDACTED] then approached Mr.

S█████ and poked him in the stomach with a baton as he repeatedly said that he would make Mr. S█████ swallow his teeth if he did not mind his business and “shut the fuck up.” When Mr. S█████ told PO M█████ to go ahead and make him swallow his teeth, PO M█████ grabbed him by his left shoulder, turned him around and pushed him against the front gate of the restaurant. Mr. S█████ chest and the left side of his face made contact with the gate. PO K█████ placed Mr. S█████ hands behind his back and also placed his forearm behind Mr. S█████ neck and pushed him against the gate with his forearm. PO K█████ placed Mr. S█████ in handcuffs as PO M█████ held him against the gate. PO K█████ asked Mr. S█████ what happened on the scene and Mr. S█████ told him. PO K█████ asked Mr. S█████ if any identification was on his person, and Mr. S█████ said that he always carried one on him and said that it was in his back left pocket. PO K█████ retrieved Mr. S█████ wallet from his pocket and told Mr. S█████ that he would be transported to the 75th Precinct stationhouse. PO K█████ and another officer transported Mr. S█████ to the 75th Precinct stationhouse. At the stationhouse, PO M█████ issued Mr. S█████ summons # ██████ for disorderly conduct. Mr. S█████ did not see PO M█████ write the summons that he was issued.

Victim: A█████ R█████

A█████ R█████ is a 25-year-old Hispanic male.

CCRB Testimony

On August 25, 2011, Mr. R█████ called the CCRB in response to two letters that were sent to him and provided a phone statement to the CCRB (encl. 69). On the incident date, he saw two females fighting when he exited the restaurant to smoke a cigarette. By the time he was done smoking his cigarette, the two females had stopped fighting. As he was about to return to the restaurant, an RMP arrived on the scene and the officers in the RMP asked him what happened. Mr. R█████ told the officers that he did not know. When Mr. R█████ told the officers that he wanted to return to the restaurant to finish his breakfast, an officer told him that he could not go back into the restaurant. This officer took out his nightstick and struck him with it. Mr. R█████ did not indicate nor was he asked what area of his body the officer struck him. The restaurant’s security guards told the officers that Mr. R█████ had nothing to do with the altercation and that he had just been smoking his cigarette outside the restaurant. The officers slammed Mr. R█████ on a car. One of the officers placed his knee on Mr. R█████ face while another officer repeatedly struck him on the chest with a nightstick. An unknown civilian, identified through investigation as S█████ G█████ was recording the interaction between Mr. R█████ and the officers with his cell phone. One of the officers told Mr. G█████ to put down his phone, but he refused. Two officers pushed Mr. G█████ on the chest with a nightstick against a gate. Two more officers joined in and surrounded Mr. G█████. Mr. R█████ could not see what these officers were doing to Mr. G█████ as they surrounded him. After the officers placed Mr. G█████ in handcuffs, they led him to the same RMP that Mr. R█████ was placed in.

Mr. R█████ scheduled an interview with the CCRB for August 29, 2011. On August 26, 2011, the undersigned investigator called Mr. R█████ and told him that his interview was being rescheduled for August 30, 2011, because the CCRB was going to be closed on August 29, 2011, due to Hurricane Irene. On August 30, 2011, Mr. R█████ did not appear for his interview nor did he call to cancel or reschedule his appointment. On the same date, he was called on his cell phone number and a message was left asking him to call the CCRB to reschedule his interview. On August 30, 2011, a missed appointment letter was mailed to Mr. R█████ which was not returned as undeliverable by the United States Postal Service (USPS). On September 6, 2011, Mr. R█████ was called on his cell phone number, but no message was left as an automated message indicated that the number was incorrect. A Lexis-Nexis search conducted for A█████ R█████ resulted in no hits.

Witness: T [REDACTED] M [REDACTED]
T [REDACTED] M [REDACTED] is a 30-year-old Hispanic female.

CCRB Testimony

On August 22, 2011, Ms. M [REDACTED] called the CCRB in response to a letter that was sent to her and provided a phone statement to the CCRB (encl. 68). She did not witness the interaction between any officers on the scene and any male on the incident date. She did not know if any male was arrested on the time, date and location of the incident. She said an unspecified person told her that a Hispanic male was arrested on the incident date because he told the officers that she was not the one to instigate a fight with another girl.

NYPD Statements:

Subject Officer: PO M [REDACTED] K [REDACTED]

- PO K [REDACTED] is a 32-year-old white male who is about 5'11" feet tall, weighs 200 pounds and has brown hair and brown eyes.
- PO K [REDACTED] was assigned to sector A of the 75th Precinct and to RMP 3274 with PO M [REDACTED]. On May 21, 2011, he was the recorder while PO M [REDACTED] was the operator. He was dressed in uniform and worked from 11:15 p.m. on May 20, 2011 to 7:50 a.m. on May 21, 2011.

Memo Book

His memo book states a male was stopped on a public sidewalk at 6:35 a.m. in front of [REDACTED] Fulton and a criminal summons was issued to S [REDACTED] G [REDACTED] because he interfered several times while police were making a lawful arrest. A stop and frisk report was prepared for this job (encl. 70-73).

Summons

PO K [REDACTED] issued criminal summons # [REDACTED] to Mr. G [REDACTED] for disorderly conduct, penal law 240.20 (5) (obstruction of vehicular or pedestrian traffic) in front of [REDACTED] Fulton Street in Brooklyn (encl. 74).

CCRB Testimony

PO K [REDACTED] was interviewed at the CCRB on September 23, 2011 (encl. 75-77). At approximately 6:40 a.m. on May 21, 2011, he and PO M [REDACTED] stopped their RMP in front of a restaurant, located at [REDACTED] Fulton Street in Brooklyn, as they conducted their routine patrol. They stopped at this location because many fights and stabbings had occurred at the establishment. PO K [REDACTED] noticed that two or three out of the approximately twenty people that were standing in front of the restaurant were fighting. When he and PO M [REDACTED] exited from their RMP, he requested, over the radio, for additional units to respond to the scene. After some unidentified officers responded to the scene, he, PO M [REDACTED] and the other unidentified officers tried to interview the people that were involved in the assault. As PO K [REDACTED] and the other officers were interviewing civilians that were involved in the assault, one of the civilians on the scene, who was identified by PO K [REDACTED] as S [REDACTED] G [REDACTED] from the photo that was shown to him, tried to push past him and the other officers. PO K [REDACTED] told Mr. G [REDACTED] multiple times to leave the scene, but each time Mr. G [REDACTED] ignored him and cursed at him. PO K [REDACTED] did not recall how many times he told Mr. G [REDACTED] to leave the scene nor did he recall what Mr. G [REDACTED] said when he cursed at him. PO K [REDACTED] did not recall seeing or interacting with J [REDACTED] C [REDACTED] and

R■■■■ S■■■■ on the incident date upon being shown copies of their state photos. When Mr. G■■■■ failed to comply with his instructions to leave the scene, PO K■■■■ issued a disorderly conduct summons to Mr. G■■■■ PO K■■■■ did not indicate nor was he asked why he issued a disorderly conduct summons to Mr. G■■■■ for penal law 240.20 (5). Mr. G■■■■ who was upset upon being issued the summons, went to the other side of the street.

Three people were arrested in relation to the incident. PO K■■■■ did not have any independent recollection of placing any civilians under arrests or interacting with any of the people that were arrested. PO K■■■■ did not observe any physical interaction between any officers and civilians. He did not recall if he helped transport any of the defendants to the stationhouse. PO K■■■■ did not use any discourteous language when speaking to any civilian nor did he hear any officers using any discourteous language when speaking to any civilian. He did not hear any officer asking any civilian, "Do you want to be a smart ass, do you want me to break your fucking teeth in?" PO K■■■■ did not observe PO M■■■■ pushing any civilian against a gate as he tried to place the person under arrest. PO K■■■■ did not recall seeing anyone recording the interaction between the officers and the civilian on the scene. He did not recall seeing a cell phone in Mr. G■■■■ hands when he was interacting with him. PO K■■■■ did not hear any officers threatening to arrest anyone nor did he threaten to arrest anyone. He did not threaten to use force, and he did not hear any officer threatening to use force. Even after he was shown the video footage for the incident, PO K■■■■ did not recall hearing any officer say to any civilian, "You better shut the fuck up or I will lock his ass up," "You better shut up before I knock your teeth down your throat," "Mind your fucking business if you don't want me to break your fucking teeth in," and "Shut up, mind your business and get the fuck out of here." PO K■■■■ recognized himself and the following officers from the video recordings: PO Ingber, PO C■■■■ PO M■■■■ and PO M■■■■

Subject Officer: PO N■■■■ M■■■■

- PO M■■■■ is a 47-year-old white male who is about 6'0" feet tall, weighs 210 pounds and who has brown hair and brown eyes.
- PO M■■■■ was assigned to sector A of the 75th Precinct and to RMP # 3047 with PO K■■■■ They were later assigned to sector BC. He was dressed in uniform and worked from 11:15 p.m. on May 20, 2011 to 7:50 a.m. on May 21, 2011.

Memo Book

He had no relevant entries in his memo book (encl. 103-105).

CCRB Testimony

PO M■■■■ was interviewed at the CCRB on October 18, 2011 (encl. 106-108). He corroborated the beginning part of PO K■■■■ testimony in regards to the circumstances that led him and PO K■■■■ to the incident location. PO M■■■■ saw an unidentified female standing in the doorway of the restaurant holding her face or one of her arms as she said she had just gotten hit. He also saw a Hispanic female, who was wearing a blue shirt and who was identified through investigation as T■■■■ M■■■■ run across the street from the restaurant as she screamed profanities. PO M■■■■ believed that there was a fight in front of the restaurant because some of the approximately 20 people that were standing in front of the restaurant were screaming and because he heard a bottle break. PO M■■■■ and PO K■■■■ parked their RMP approximately 30 feet east of the establishment. They decided to investigate what happened to the unidentified female and to ask the people that were standing in front of the restaurant to disperse. The unidentified female told them that she was assaulted by Ms. M■■■■ Ms. M■■■■ was later arrested, but PO M■■■■ did not assist in the arrest and he did not know which officer arrested

Ms. M [REDACTED] When PO M [REDACTED] asked the unidentified female who assaulted her, the female pointed to Ms. M [REDACTED]. At this point, other individuals started to exit the restaurant. Some of these individuals were intoxicated, PO M [REDACTED] and PO K [REDACTED] asked the people who were standing in front of the restaurant and who were exiting the restaurant to disperse several times. PO M [REDACTED] said he was not sure how many commands he and PO K [REDACTED] issued. A call for additional officers was made by either him or PO K [REDACTED].

At some point, other officers started to arrive at this scene. Some of the individuals who were asked to leave complied with the officers' instructions while others did not. One of the males on the scene, who was identified from the video footage of the incident as A [REDACTED] R [REDACTED] walked away from the front of the restaurant. Mr. R [REDACTED] later returned to the front of the restaurant, stating that he wanted to go inside the restaurant to finish his drink. PO M [REDACTED] approached Mr. R [REDACTED] after he failed to comply with his repeated instructions to disperse. PO M [REDACTED] told Mr. R [REDACTED] that he was under arrest and handcuffed him near a motor vehicle. PO K [REDACTED] and another officer, who PO M [REDACTED] identified from the video footage of the incident as PO Ingber, assisted PO M [REDACTED] in placing Mr. R [REDACTED] under arrest. PO M [REDACTED] who did not recall if Mr. R [REDACTED] resisted arrest, said he may have placed Mr. R [REDACTED] against a vehicle while he was arresting him. Mr. R [REDACTED] said he did not do anything wrong as he was being placed in handcuffs and directed profanities at PO M [REDACTED], PO K [REDACTED] and PO Ingber. Some males that were standing behind PO M [REDACTED] said something along the lines of, "What the fuck is going on? This is bullshit. You fucking cops are harassing us." PO M [REDACTED] was not sure if he saw R [REDACTED], S [REDACTED], S [REDACTED], G [REDACTED] and J [REDACTED] C [REDACTED] on the incident date, upon being shown copies of their photo identifications. PO M [REDACTED] told these males about three to five times to keep their mouth shut and to leave the scene. Other unknown officers also issued commands to these males, but they did not comply with the officers' commands. PO M [REDACTED] did not have any independent recollections of telling anyone, "Mind your fucking business. Do you want me to break your fucking teeth in?"

After Mr. R [REDACTED] was placed under arrest, PO M [REDACTED] approached one of the males, identified from the video footage as R [REDACTED] S [REDACTED] who was interfering in Mr. R [REDACTED] arrest by cursing at the officers with his baton drawn. Another male who was also interfering in Mr. R [REDACTED] arrest by cursing at the officers (identified from the video footage as J [REDACTED] C [REDACTED] got in between him and Mr. S [REDACTED] and said, "I got this officer." When Mr. S [REDACTED] said something along the lines of "This is bullshit. The cops are always harassing us and we are not fucking listening to this," Mr. C [REDACTED] told Mr. S [REDACTED] to "shut the fuck up," a couple times. PO M [REDACTED] told Mr. S [REDACTED] that he would be arrested if he did not keep his mouth shut and leave the scene. He did not tell anyone "you better shut the fuck up or I'll lock your ass up." PO M [REDACTED] had no independent recollection of telling Mr. S [REDACTED] that he would make him "swallow his teeth if he did not shut the fuck up," threatening to knock anyone's teeth down their throat or asking anyone, "Do you want me to break your fucking teeth in?" PO M [REDACTED] had no independent recollection if he referred to anyone as a "smartass" nor did he recall if he directed discourteous comments towards any civilians. He said he heard discourteous comments being made while he was on the scene, but he did not know who was saying them. PO M [REDACTED] said, upon viewing the video footage of the incident, that he did not recall threatening to knock anyone's teeth down their throat. He said he heard Mr. S [REDACTED] telling him to go ahead and knock his teeth down his throat, in the recording. When Mr. S [REDACTED] did not stop talking, PO M [REDACTED] touched Mr. C [REDACTED] somewhere on his back and pushed him out of the way. PO M [REDACTED] later said he did not believe that he placed his hands on Mr. C [REDACTED]. He said he told Mr. C [REDACTED] to please move out of the way and Mr. C [REDACTED] complied. PO M [REDACTED] then put his baton away and did not push his baton into anyone. He asked Mr. S [REDACTED] to turn around, but Mr. S [REDACTED] did not comply. PO M [REDACTED] turned Mr. S [REDACTED] around. He said he might have placed Mr. S [REDACTED] against a gate when he turned him around. He did not recall if any officer held Mr. S [REDACTED] neck while his back was turned to him. Mr.

S█████ was instructed about two to four times before he placed his hands behind his back. PO M█████ was assisted by PO M█████ (who he identified from the video footage that was shown to him) in placing Mr. S█████ in handcuffs because PO M█████ did not have any handcuffs on his person. PO M█████ did not recall if another officer handcuffed Mr. S█████ or if he got handcuffs from another officer and handcuffed Mr. S█████. PO M█████ had no independent recollection if he saw anyone recording his interaction with the civilians on the scene. He had no independent recollection if he issued any commands asking an officer to get the person who was recording the incident. Mr. S█████ was taken to the stationhouse, where he was eventually released with a criminal summons.

Subject Officer: PO E█████ M█████

- PO M█████ is a 28-year-old Hispanic male who is about 6'2" feet tall, weighs 220 pounds and who has black hair and brown eyes.
- PO M█████ was assigned to sector KM of the 75th Precinct and to RMP # 3304-10 with PO M█████. On May 21, 2011, he was the operator while PO M█████ was the recorder. He was dressed in uniform and worked from 11:15 p.m. on May 20, 2011 to 7:50 a.m. on May 21, 2011.

Memo Book

His memo book indicated that at 6:30 a.m., he went to assist officers assigned to sector A of the 75th Precinct at Logan Street and Fulton Street in Brooklyn, where three individuals were placed under arrest. His memo book also indicated that he returned to the 75th Precinct stationhouse upon leaving the scene and processed the paperwork for the people that were arrested and issued two criminal summonses to two defendants (encl. 79-83).

Summonses

PO M█████ issued criminal summons # ██████ for disorderly conduct for obscene language and gesture to R█████ S█████ at the corner of Logan Street and Fulton Street in Brooklyn (encl. 84). He also issued criminal summons # ██████ to A█████ R█████ for obscene language and gesture.

CCRB Testimony

PO M█████ was interviewed at the CCRB on September 23, 2011 (encl. 85-87). At approximately 6:40 a.m. on May 21, 2011, he and PO M█████ received a radio run to assist officers that were assigned to sector A of the 75th Precinct at the intersection of Fulton and Logan Street in the Brooklyn. When they arrived on the scene, PO M█████ and PO M█████ were the sixth or seventh unit to arrive on the scene. PO M█████ noticed that there were approximately ten to fifteen civilians standing in front of the restaurant that was at the incident location. He also noticed that a big melee was occurring in front of the restaurant, which was well known at the 75th Precinct stationhouse as a spot where gang fights and assaults usually occur. He saw a female arguing with another female while two males cursed at each other and acted as if they wanted to fight each other. PO M█████ observed officers talking and interacting with some civilians while some of the other officers stood and watched the scene. When PO M█████ and PO M█████ exited from their RMP, PO M█████ heard two males (who were identified as R█████ S█████ and A█████ R█████ from the video footage of the incident that was shown to PO M█████ and from police documents) cursing at the officers on the scene as they stood in separate areas on the scene. He did not recall what Mr. S█████ and Mr. R█████ were saying when they cursed at the officers on the scene. PO M█████ told Mr. S█████ and Mr. R█████ to stop cursing several times. When Mr. S█████ and Mr. R█████ did not comply with his instructions, PO M█████ told them that he was

going to detain them and place them in the back of his RMP. He did not threaten to arrest any civilian on the scene nor did he hear any officers threaten to arrest any civilian. PO M█████ did not place Mr. S█████ and Mr. R█████ in handcuffs. He said an officer that he did not recall handcuffed the males and placed them in the back of his RMP. PO M█████ upon being shown the video footage of the incident during his CCRB interview, said that the officers that participated in the arrest of Mr. R█████ and Mr. S█████ were PO K█████ PO Ingber and PO M█████. He did not observe anyone recording the interaction between the civilians and the officers on a cell phone or any other device.

At some point, PO M█████ was approached by an unknown female, who told him that she was assaulted by another female (who he identified from the video footage that was shown to him during his CCRB interview as the Hispanic female with the blue shirt and who was identified through investigation as T█████ M█████). He did not recall what the unknown female told him regarding the circumstances that led to the fight. PO M█████ approached Ms. M█████ who was standing in front of the restaurant, and placed her under arrest. When PO M█████ saw one or two civilians interfere in the arrest of another individual by an unknown officer, he took the individuals to the side and told them that if they had any questions or issues, they could direct them to him. PO M█████ did not indicate nor was he asked to identify the civilians that were interfering in the arrest of the other individual. He also did not indicate nor was he asked to describe how these civilians were interfering in the arrest of the other individual. PO M█████ did not hear any officers telling any civilian, “Mind your fucking business. Do you want me to break your fucking teeth in?”; “Do you want to be a smart ass? Do you want me to break your fucking teeth in;” and “Shut the fuck up or I’ll lock your ass up.” He said that he did not make any of these comments to any civilians on the scene. He said that he did not refer to any civilian as an “asshole” and he did not hear any officer refer to any civilian as such. PO M█████ said, upon being shown the video footage of the incident, that he did not have an independent recollection of the officers cursing at any civilians on the scene. PO M█████ did not observe any officers pushing any civilians against any object or structure. He did not hear any officer threatening to make a civilian swallow his teeth nor did he make this threat. Upon viewing the video footage for the incident, PO M█████ stated that he did not have an independent recollection of the officers threatening to use force against any civilians on the scene. At the conclusion of the incident, PO M█████ transported Mr. S█████ and Mr. R█████ to the stationhouse where he issued them each a criminal summons. He did not transport Ms. M█████ to the stationhouse and he did not know which officers did.

Subject Officer: PO B█████ C█████

- *PO C█████ is a 31-year-old white male who is about 5’7” feet tall, weighs 200 pounds and who has brown hair and brown eyes.*
- *PO C█████ was assigned to transport duty at the 75th Precinct and to RMP # 3981 with PO Ingber. On May 21, 2011, he was the recorder while PO Ingber was the operator. He was dressed in uniform and worked from 11:15 p.m. on May 20, 2011 to 7:50 a.m. on May 21, 2011.*

Memo Book

His memo book indicated that he responded to an “other crime in progress” job at 6:17 a.m. at the corner of Logan Street and Fulton Street in Brooklyn, where he transported a female defendant to the stationhouse on behalf of sector K (encl. 89-91).

CCRB Testimony

PO C [REDACTED] was interviewed at the CCRB on October 6, 2011 (encl. 92-94). At approximately 6:40 a.m. on May 21, 2011, he and PO Ingber responded to a radio run for an “other crime in progress” at the corner of Logan Street and Fulton Street in Brooklyn. When they arrived on the scene, PO C [REDACTED] saw two females and a Hispanic male (who was identified from the video footage of the incident that was shown to PO C [REDACTED] and from police documents as A [REDACTED] R [REDACTED] standing in front of a 24-hour restaurant, where a lot of shootings, killings, gang related violence and drug related crimes have occurred. There were approximately 30 people standing in the area where the restaurant was located. One of the females (identified through the video footage that was shown to PO C [REDACTED] and from police documents as T [REDACTED] M [REDACTED] although, he said the name did not ring a bell) and Mr. R [REDACTED] approached PO C [REDACTED] and PO Ingber, as they exited from the RMP. Mr. R [REDACTED] spoke first, but, PO C [REDACTED] did not recall what he said. He only recalled that Mr. R [REDACTED] did not have anything to do with the incident. Ms. M [REDACTED] told him that she was assaulted by another female. When Mr. R [REDACTED] tried to interfere in PO C [REDACTED] conversation with Ms. M [REDACTED] PO C [REDACTED] told Mr. R [REDACTED] for about ten minutes to step aside, go home and let him do his job, but Mr. R [REDACTED] kept talking. Mr. R [REDACTED] became upset that PO C [REDACTED] and PO Ingber were not listening to him.

Mr. R [REDACTED] suddenly walked away from PO C [REDACTED] as PO C [REDACTED] was talking to him and Ms. M [REDACTED] PO C [REDACTED] called Mr. R [REDACTED] an “asshole” as Mr. R [REDACTED] walked away from him because he had to tell Mr. R [REDACTED] to leave the scene over 20 times. When Ms. M [REDACTED] followed Mr. R [REDACTED] PO C [REDACTED] and PO Ingber followed her for half a block because they were not done speaking to her and because they needed to determine if a crime had been committed and determine whether she was free to go. When PO C [REDACTED] asked Ms. M [REDACTED] for her identification, Ms. M [REDACTED] and Mr. R [REDACTED] stopped walking. Ms. M [REDACTED] gave PO C [REDACTED] her identification as PO Ingber spoke to Mr. R [REDACTED] PO C [REDACTED] got involved in the conversation between PO Ingber and Mr. R [REDACTED] and subsequently an argument ensued between the three. At some point when PO C [REDACTED] looked down the block, he saw an unknown officer waving to him and indicating that Ms. M [REDACTED] was under arrest. PO C [REDACTED] asked Ms. M [REDACTED] to walk with him because an officer down the street wants to talk to her. Ms. M [REDACTED] complied. When they got to the other end of the block, the unknown officer who waved at PO C [REDACTED] told Ms. M [REDACTED] that she was under arrest for assault. After which, the unknown officer handcuffed her and placed her in the back seat of PO C [REDACTED] RMP. PO C [REDACTED] stood by his RMP and watched Ms. M [REDACTED] as she sat in his RMP. At this point, PO Ingber was still down the block where he left him. PO C [REDACTED] did not know what PO Ingber was doing down the block.

PO C [REDACTED] said Mr. R [REDACTED] was arrested, but he did not arrest him or assist any officers in placing him or any other civilians under arrest. He said he was not present when Mr. R [REDACTED] was arrested and only knows that Mr. R [REDACTED] was arrested because he saw Mr. R [REDACTED] at the stationhouse and Mr. R [REDACTED] apologized to him. PO C [REDACTED] did not know which officers arrested Mr. R [REDACTED] Upon being shown the video footage of the incident, PO C [REDACTED] identified the officers that arrested Mr. R [REDACTED] as PO M [REDACTED] PO Ingber and PO K [REDACTED] PO C [REDACTED] did not observe a group of males interacting with any of the officers on the scene. He did not recall seeing R [REDACTED] S [REDACTED] S [REDACTED] G [REDACTED] and J [REDACTED] C [REDACTED] at the incident location upon being shown their NYS photo identifications. PO C [REDACTED] did not hear any officer telling any civilian, “Mind your fucking business. Do you want me to break your fucking teeth in?”, “Do you want to be a smart ass? Do you want me to break your fucking teeth in?”, “You better shut the fuck up or I’ll lock your ass up” and “Shut up. Mind your business and get the fuck out of here.” He did not make these comments to any civilian. PO C [REDACTED] did not think he heard any officer say to any civilian, “You better shut up before I knock your teeth down your throat,” nor did he make this comment to anyone on the incident date. PO C [REDACTED] did not have any independent recollection of PO Ingber cursing at any civilian on the scene. PO C [REDACTED] was not asked if he recalled making a

discourteous comment to Mr. R [REDACTED] or any other civilians on the incident date nor did he proffer an explanation upon viewing the video footage of the incident. PO C [REDACTED] who was not carrying his baton on the incident date, did not see an officer with a baton. He said that he had no independent recollection of PO M [REDACTED] or any other officer taking out their baton or threatening to knock a civilian's teeth down his throat. PO C [REDACTED] did not observe any officer push a male against a police vehicle or a gate on the incident date. He said he did not have any physical interaction with any civilian and that at the conclusion of the incident, he and PO Ingber transported Ms. M [REDACTED] to the stationhouse.

Subject Officer: PO DANIEL INGBER

- *PO Ingber is a 37-year-old white male who is about 5'6" feet tall, weighs 210 pounds and who has blond hair and blue eyes.*
- *PO Ingber was assigned to transport duty at the 75th Precinct and to RMP # 4981 with PO C [REDACTED]. They were later assigned to sector BC. On May 21, 2011, he was the operator while PO C [REDACTED] was the recorder. He was dressed in uniform and worked from 11:15 p.m. on May 20, 2011 to 7:50 a.m. on May 21, 2011.*

Memo Book

His memo book entries are the same as PO C [REDACTED] entries, which are noted above (encl. 96-98).

CCRB Testimony

PO Ingber was interviewed at the CCRB on October 6, 2011 (encl. 99-101). He corroborated the beginning part of PO C [REDACTED] testimony in regards to how they ended up at the incident location and the reputation of the 24-hour restaurant at the incident location. PO Ingber saw a group of ten to fifteen people standing in front of the restaurant when he and PO C [REDACTED] arrived on the scene. PO Ingber did not recall if he and PO C [REDACTED] approached members of the crowd or if some members of the crowd approached them. He recalled that he and PO C [REDACTED] asked the members of the crowd who called for the police and what was the problem. A Hispanic female in the crowd, who was wearing a blue shirt, (identified through investigation as T [REDACTED] M [REDACTED]) approached and told them that she had been assaulted. Ms. M [REDACTED] did not tell him who assaulted her. At this point, PO M [REDACTED] and PO K [REDACTED] responded to the scene and started speaking to some members of the crowd. Some minutes later, PO M [REDACTED] who PO Ingber identified from the video footage that was shown to him during his CCRB interview as the dark haired officer who was wearing reading glasses, responded to the scene with PO M [REDACTED]. PO Ingber noticed that most of the people in the crowd were "intoxicated" and acting "disorderly" as they tried to get in the way of the investigation. Some members of the crowd tried to pull people away as the officers were speaking to them or tried to distract the officers from speaking to other civilians on the scene by asking numerous questions. PO Ingber and the other officers on the scene tried to get the crowd to disperse. He told the Hispanic male that was wearing a black hat in the video footage (identified through investigation as A [REDACTED] R [REDACTED] but who he thought was J [REDACTED] C [REDACTED] upon being shown Mr. C [REDACTED] photo identification) to leave the scene for about fifteen minutes, but Mr. R [REDACTED] refused. PO Ingber heard PO C [REDACTED] refer to Mr. R [REDACTED] as an "asshole," but he did not recall why PO C [REDACTED] referred to Mr. R [REDACTED] as such. It is unclear at what point PO C [REDACTED] referred to Mr. R [REDACTED] as an asshole.

At some point, Mr. R [REDACTED] moved from the front of the restaurant to the end of the block, where he was arrested by PO M [REDACTED] and PO K [REDACTED] (both of whom he recognized from the video footage that was shown to him). PO Ingber could not explain how Mr. R [REDACTED] ended up

down the block from the front of the restaurant. He did not know why Mr. R [REDACTED] was arrested. He only assisted PO M [REDACTED] and PO K [REDACTED] in placing Mr. R [REDACTED] under arrest after they told him that Mr. R [REDACTED] was under arrest. PO Ingber said Mr. R [REDACTED] who was compliant, was placed against a vehicle as he was being placed under arrest. He did not recall seeing any officer place their hand on Mr. R [REDACTED] head as he was being placed against the RMP. PO Ingber did not recall any civilians interfering in Mr. R [REDACTED] arrest. After Mr. R [REDACTED] was placed in handcuffs, PO Ingber went and watched Ms. M [REDACTED] who was sitting in the back of his RMP in handcuffs. PO Ingber said he did not arrest Ms. M [REDACTED] and he did not know which officer did. Although his memo book indicated that officers assigned to sector KM of the 75th Precinct (identified through investigation as PO M [REDACTED] and PO M [REDACTED] placed Ms. M [REDACTED] under arrest, he did not actually see these officers as they effected the arrest. PO Ingber did not hear any officer telling any civilian, "Mind your fucking business. Do you want me to break your fucking teeth in?" and "Do you want to be a smart ass? Do you want me to break your fucking teeth in?" He said that he did not make these comments to anyone. PO Ingber had no independent recollection of threatening to knock any civilians' teeth down his or her throat nor did he hear any officers making such a threat. PO Ingber said it was possible that he told a civilian, "You better shut the fuck or I'll lock your ass up," but he did not hear any officer make this comment to any civilian. PO Ingber was not asked why he would have made such a comment to anyone nor was he asked who he might have made the comment to. PO Ingber did not push any civilian against a gate as he tried to place him in handcuffs and he did not observe any officers doing this. He did not observe an officer pushing a civilian that was preventing him from arresting another civilian out of the way. PO Ingber had no independent recollection of an officer threatening to hit any civilian with a baton on the incident date. He said he saw PO M [REDACTED] taking out his baton at some point, but he did not have an independent recollection as to why PO M [REDACTED] took out his baton and what PO M [REDACTED] did with the baton once he took it out. PO Ingber, who said he and the other officers on the scene had a baton on their person on the incident date, did not take out his baton. At the conclusion of the incident, he and PO C [REDACTED] transported only Ms. M [REDACTED] to the stationhouse.

Witness Officer: SGT. B [REDACTED] S [REDACTED]

- Sgt. S [REDACTED] is a 36-year-old white male who is about 5'7" feet tall, weighs 190 pounds and who has brown hair and blue eyes.
- Sgt. S [REDACTED] was assigned to patrol supervisor duty at the 75th Precinct and to RMP # 3217 with PO V [REDACTED]. He was dressed in uniform and worked from 11:15 p.m. on May 20, 2011 to 7:50 a.m. on May 21, 2011.

IAB Statement

Sgt. S [REDACTED] was not interviewed by the CCRB. On May 21, 2011, he provided the following statement to the IAB (encl. 111). Sgt. S [REDACTED] reported that one female (T [REDACTED] M [REDACTED] and two males (A [REDACTED] R [REDACTED] and R [REDACTED] S [REDACTED] were arrested at the incident location. He said that Mr. R [REDACTED] and Mr. S [REDACTED] were arrested for and charged with disorderly conduct because they refused to disperse while Ms. M [REDACTED] was arrested for and charged with Assault 3. Sgt. S [REDACTED] also said that Ms. M [REDACTED] fought with another female at the restaurant and the fight spilled onto the street. Sgt. S [REDACTED] called PO V [REDACTED] and reported that no call back or no name was provided on the SPRINT for the incident that took place at the intersection of Logan Street and Fulton Street. PO V [REDACTED] told Sgt. S [REDACTED] that the name of the victim in the case was J [REDACTED] C [REDACTED].

NYPD Documents

Stop & Frisk Report

A request for stop and frisk report generated for the date, time and location of the incident yielded negative results (encl. 112).

Command Log

The command log revealed that R [REDACTED] S [REDACTED] and A [REDACTED] R [REDACTED] appeared normal at the time of their arrests while T [REDACTED] M [REDACTED] appeared to be intoxicated. Mr. S [REDACTED] and Mr. R [REDACTED] were released with disorderly conduct summons (encl. 120-121).

Disposition of Summonses

- On April 26, 2012, the undersigned investigator called the Brooklyn County Criminal Summons Disposition and the operator informed the assigned investigator that summons # [REDACTED] that was issued to Mr. G [REDACTED] was dismissed and sealed. The operator also said that the following summons numbers that were issued to Mr. S [REDACTED] and Mr. R [REDACTED] respectively, were sealed: [REDACTED] and [REDACTED] (encl. 128).

Status of Civil Proceeding

- J [REDACTED] C [REDACTED] S [REDACTED] G [REDACTED] R [REDACTED] S [REDACTED] and A [REDACTED] R [REDACTED] have not filed a Notice of Claim with the City of New York as of July 19, 2012, with regard to the incident (encl. 176).

Civilian Criminal History

- As of September 10, 2012, Office of Court Administration records reveal no criminal convictions for J [REDACTED] C [REDACTED] (encl. 141).
- As of September 10, 2012, Office of Court Administration records reveal no criminal convictions for R [REDACTED] S [REDACTED] (encl. 142-148).
- As of September 10, 2012, Office of Court Administration records revealed the criminal conviction history for S [REDACTED] G [REDACTED]
 - On March 19, 2003, S [REDACTED] G [REDACTED] pled guilty to disorderly conduct and was conditionally discharged, sentenced to five days of community service and asked to pay a surcharge fee of \$60. He was also issued a final order of protection.
 - On March 11, 2004, he pled guilty to disorderly conduct and was imprisoned for 15 days and paid a surcharge fee of \$95 (encl. 149-159).
- As of September 10, 2012, Office of Court Administration records revealed the following conviction history for A [REDACTED] R [REDACTED]
 - On September 28, 2012, A [REDACTED] R [REDACTED] pled guilty to disorderly conduct and was sentenced to time served and asked to pay a surcharge fee of \$95 (encl. 160-172).

Civilian CCRB History

- This is the first complaint filed by J [REDACTED] C [REDACTED] R [REDACTED] S [REDACTED] S [REDACTED] G [REDACTED] and A [REDACTED] R [REDACTED] (encl. 34-37).

Subject Officers CCRB History

- PO Ingber has been a member of the service for 6 years and has no substantiated CCRB allegations against him (encl. 28)
- PO C [REDACTED] has been a member of the service for 4 years and has no substantiated CCRB allegations against him (encl. 29)
- PO M [REDACTED] has been a member of the service for 13 years and has no substantiated CCRB allegations against him (encl. 30-31)

- PO K [REDACTED] has been a member of the service for 5 years and has no substantiated CCRB allegations against him (encl. 32).
- PO M [REDACTED] has been a member of the service for 7 years and has no substantiated CCRB allegations against him (encl. 33)

Conclusions and Recommendations

Identification of Subject Officer

The subject officers in this case acknowledged that they responded to the incident and interacted with some, if not all, of the following individuals: Mr. R [REDACTED] Mr. S [REDACTED] Mr. G [REDACTED] Mr. C [REDACTED] and Ms. M [REDACTED]. Their presence at the scene was also corroborated by their memo books, SPRINT, other police documents and the video recording of the incident.

A discourtesy allegation is pleaded against PO Ingber and PO C [REDACTED] even though Mr. R [REDACTED] did not make this allegation to the CCRB during his phone statement to the CCRB because the video footage provided to the CCRB by Mr. G [REDACTED] shows the officers cursing at Mr. R [REDACTED]. Mr. R [REDACTED] alleged that some officers questioned him and pushed him against a vehicle. A question and force allegation is pleaded against "officers" because Mr. R [REDACTED] did not identify or describe the officers that questioned him and pushed him against a vehicle. Mr. R [REDACTED] alleged that an officer struck him with a baton on his chest and placed his knee on his face. A force allegation is pleaded against "an officer" because Mr. R [REDACTED] did not identify or describe the officer that struck him with a baton and pushed him.

Mr. S [REDACTED] said that a uniformed white male officer with dirty blond hair, heavy build, who was 5'6" or 5'7" tall and who was in his mid-thirties threatened to knock his teeth down his throat, grabbed and placed him under arrest because he told the officer that he was manhandling Mr. R [REDACTED]. Although PO M [REDACTED] did not match the description provided by Mr. S [REDACTED] threat of force, and stop allegations are pleaded against him because he acknowledged that he was the officer who approached Mr. S [REDACTED] with his baton drawn. These allegations are also pleaded against PO M [REDACTED] because the video recording shows him approaching Mr. S [REDACTED] with his baton drawn. A summons allegation is pleaded against PO M [REDACTED] because his name and tax identification number are listed on the summons that was issued to Mr. S [REDACTED].

Mr. G [REDACTED] said that a uniformed white male officer, who weighed 175 to 180 pounds, was 5'10" to 5'11" tall, and who Mr. G [REDACTED] identified as PO K [REDACTED] from the summons that he was issued, spoke discourteously to him and issued him a summons. Discourtesy and summons allegations are pleaded against PO K [REDACTED] because he acknowledged that he interacted with Mr. G [REDACTED] and issued a summons to him.

Investigative Findings and Recommendations

Allegation Not Pleaded

Mr. S [REDACTED] alleged that when he asked the officers on the scene why they were manhandling Mr. R [REDACTED] PO M [REDACTED] told him, "Mind your fucking business. Do you want me to break your fucking teeth." A discourtesy allegation is not pleaded because it is going to be subsumed in the threat of force allegation. Although Mr. S [REDACTED] alleged that PO M [REDACTED] poked him on the stomach with a baton before placing him under arrest, a force allegation is not pleaded because this allegation has been subsumed into the threat of force allegation.

Allegation A – Discourtesy: PO Daniel Ingber spoke discourteously to A [REDACTED] R [REDACTED]

Allegation B – Discourtesy: PO B [REDACTED] C [REDACTED] spoke discourteously to A [REDACTED] R [REDACTED]

The video recording provided by Mr. G [REDACTED] revealed that when Mr. R [REDACTED] asked PO Ingber what he did wrong, PO Ingber said "Shut your mouth. Do you want to go to jail? Shut your fucking mouth and stand there. You hear me." PO Ingber mentioned that it was possible that

he told a civilian, “You better shut the fuck up or I’ll lock your ass up.”

The video recording provided by Mr. G [REDACTED] revealed that when Mr. R [REDACTED] asked PO C [REDACTED] why an unspecified officer hit him, PO C [REDACTED] said, “You want me to answer your question, but you would not shut up for two fucking minutes, asshole.” PO C [REDACTED] said he called Mr. R [REDACTED] “an asshole,” when Mr. R [REDACTED] walked away from him because he had told Mr. R [REDACTED] several times to leave the scene. PO Ingber confirmed that he heard PO C [REDACTED] refer to Mr. R [REDACTED] as an asshole, but he did not recall why PO C [REDACTED] referred to Mr. R [REDACTED] as such.

According to Patrol Guide Section 203-09, officers are expected to be courteous and respectful at all times (encl. 1). Although, according to Police Dep’t. v. White (OATH Index no. 78667/03, October 7, 2004), the use of expletives to gain control of a stressful situation does not constitute misconduct (encl. 2-5). Given the above, the investigation determined that the situation was not stressful. First, there were no reports of serious injury. Second, there were numerous police officers on the scene assisting in the investigation. Third, based on the first video recording, no one appeared to be interfering with the officers’ interaction with Mr. R [REDACTED]. Furthermore, the video recording shows that no civilian, apart from Ms. M [REDACTED] and her friend, were standing nearby as PO Ingber and PO C [REDACTED] interacted with Mr. R [REDACTED].

In this case, there was no reason for PO Ingber and PO C [REDACTED] to speak discourteously to Mr. R [REDACTED] since Mr. R [REDACTED] was only asking the officers questions. As a result, PO Ingber’s and PO C [REDACTED] comments served no legitimate law enforcement objective and were in violation of the Patrol Guide Procedure. It is therefore recommended that **Allegations A and B** be closed as **substantiated**.

Allegation C – Abuse of Authority: Officers questioned A [REDACTED] R [REDACTED]

Allegation D – Abuse of Authority: An officer struck A [REDACTED] R [REDACTED] with a baton.

Allegation E – Abuse of Authority: Officers hit A [REDACTED] R [REDACTED] against a vehicle.

Allegation F – Abuse of Authority: An officer used physical force against A [REDACTED] R [REDACTED]

A [REDACTED] R [REDACTED] alleged that officers asked him what happened, an officer struck him with a baton, officers slammed him against a gate, an officer placed his knee on his face while another officer struck him on the chest with a nightstick. However, Mr. R [REDACTED] did not provide a formal statement to the CCRB regarding the incident and the video recording did not capture any of these allegations. None of the witnesses that were interviewed in relation to the incident mentioned any of these allegations. Therefore, it is recommended that **Allegations C, D, E and F** be closed as **victim uncooperative**.

Allegation G – Abuse of Authority: PO N [REDACTED] M [REDACTED] threatened R [REDACTED] S [REDACTED] with the use of force.

The video recording revealed that when Mr. S [REDACTED] told the officers that they did not have to manhandle Mr. R [REDACTED] PO M [REDACTED] told Mr. S [REDACTED] “Don’t interfere when we’re doing our job. You understand?” PO M [REDACTED] then tells Mr. S [REDACTED] “You’re going to get your teeth knocked down your throat. You think I’m wrong? You think I’m wrong?” PO M [REDACTED] and the other officers on the scene had no independent recollection of threatening to knock Mr. S [REDACTED] teeth down his throat.

According to Police Dep’t. v. Briscoe (OATH Index no. 1328/00, September 29, 2000), any gratuitous comment that serves no other purpose than to intimidate, constitutes an abuse of an officer’s authority (encl. 6-7).

PO M [REDACTED] had no basis for threatening to push Mr. S [REDACTED] teeth down his throat because Mr. S [REDACTED] was merely questioning his use of force against Mr. R [REDACTED]. Because Mr. S [REDACTED] was not obstructing, impairing or attempting to prevent the officers from arresting Mr. R [REDACTED] PO M [REDACTED] comment served no other purpose other than to intimidate Mr. S [REDACTED].

Therefore, it is recommended that **Allegation G** be **substantiated**.

Allegation H – Abuse of Authority: PO N [REDACTED] M [REDACTED] stopped R [REDACTED] S [REDACTED]

Allegation I – Abuse of Authority: PO E [REDACTED] M [REDACTED] issued a summons to R [REDACTED] S [REDACTED]

Mr. S [REDACTED] alleged that when PO M [REDACTED] and PO Ingber were arresting Mr. R [REDACTED] he asked the officers why they were mistreating Mr. R [REDACTED] and PO M [REDACTED] told him in sum and substance to be quiet and threatened to break his teeth in. When Mr. S [REDACTED] asked PO M [REDACTED] if he was going to talk to a civilian like that, Mr. C [REDACTED] told Mr. S [REDACTED] to shut up. Mr. S [REDACTED] then told PO M [REDACTED] to go ahead and break his teeth. At this point, PO M [REDACTED] approached Mr. S [REDACTED] and told Mr. S [REDACTED] that he would make him swallow his teeth. PO M [REDACTED] then grabbed Mr. S [REDACTED] and placed him under arrest.

According to PO M [REDACTED] when he was arresting Mr. R [REDACTED] there were some males standing behind PO M [REDACTED] who said something along the lines of, “What the fuck is going on? This is bullshit. You fucking cops are harassing us.” In response, PO M [REDACTED] stated that he told these males three to five times to be quiet and leave the scene. PO M [REDACTED] also noted that other officers gave similar commands. After Mr. R [REDACTED] was under arrest, PO M [REDACTED] noted that he approached Mr. S [REDACTED] and told Mr. S [REDACTED] that he would be arrested if he did not comply with his instructions. PO M [REDACTED] noted that when Mr. S [REDACTED] did not stop talking, he asked Mr. S [REDACTED] to turn around and he refused and he placed him under arrest.

The beginning part of the second video recording captured the voices of Mr. S [REDACTED] Mr. C [REDACTED] and Mr. G [REDACTED] using some discourteous language as they spoke to one another and questioned the level of force the officers used in arresting Mr. R [REDACTED]. However, the video did not reveal the men interfering with PO M [REDACTED] and PO Ingber’s arrest of Mr. R [REDACTED]. The video did not show PO M [REDACTED] or any other officers issuing commands to these men to be quiet or leave the scene. After Mr. S [REDACTED] asked the officers why they were holding Mr. R [REDACTED] neck, PO M [REDACTED] issued his first command to Mr. S [REDACTED] telling him to shut his mouth or he will be next. When Mr. S [REDACTED] Mr. C [REDACTED] and Mr. G [REDACTED] said, “ahh” in unison, PO M [REDACTED] approached the men and threatened Mr. S [REDACTED]. The video shows PO M [REDACTED] approaching Mr. S [REDACTED] and saying, “Don’t interfere when we’re doing our job” and then threatening to break Mr. S [REDACTED] teeth. Mr. C [REDACTED] tried to get in between Mr. S [REDACTED] and PO M [REDACTED]. Based on the video, when Mr. S [REDACTED] responded to PO M [REDACTED] threat by saying, “knock my teeth out,” PO M [REDACTED] did not instruct Mr. S [REDACTED] to turn around, but immediately turned Mr. S [REDACTED] around and placed Mr. S [REDACTED] hands behind his back. Mr. S [REDACTED] was transported to the 75th Precinct stationhouse, where PO M [REDACTED] released him with a summons for disorderly conduct, penal law 240.20 (3).

“The disorderly conduct statute ‘applies to words and conduct reinforced by a mental state to create a public disturbance.’” *People v. Castro*, 29 Misc.3d 1217A (Sup. Ct. Bronx Cty. 2010) (encl. 8-16). As such, the acts proscribed by the disorderly conduct statute must be performed with the intent to cause public inconvenience, annoyance or alarm, or recklessly create a risk thereof to constitute an offense. N.Y. Penal Law § 240.20; *People v. Square*, 20 Misc.3d 1126A (Crim. Ct. N.Y. Cty. 2008) (encl. 17-20). The acts proscribed by statute must be of a public rather than an individual dimension. *People v. Weaver*, 16 N.Y.3d 123, 127-128 (2011) (encl. 21-24). As such, mere abusive language directed at an officer issuing a summons does not establish probable cause to arrest for disorderly conduct or obstruction of governmental administration.

The video shows that Mr. S [REDACTED] did not do anything that carried beyond the concern of individual disputants and that he did not physically involve himself in the arrest of Mr. R [REDACTED]. The critical words he uttered did not elicit a response or a look from either Mr. R [REDACTED] or PO Ingber, PO M [REDACTED] or PO K [REDACTED] while they were placing Mr. R [REDACTED] in handcuffs. In fact, in the video,

someone walks past this interaction without stopping or seeming to be concerned about what is happening. Because Mr. S [REDACTED] did not do anything that rose to the level of disorderly conduct and because his summons was sealed, the investigation determined that PO M [REDACTED] stop of Mr. S [REDACTED] and PO M [REDACTED] issuance of the summons were not in good faith pursuit of legitimate law enforcement objectives. Therefore, it is recommended that **Allegations H and I** be closed as **substantiated**.

Allegation J – Abuse of Authority: PO M [REDACTED] K [REDACTED] issued a summons to S [REDACTED] G [REDACTED]

It is undisputed that PO K [REDACTED] issued Mr. G [REDACTED] a summons for disorderly conduct (obstruction of vehicular or pedestrian traffic). Mr. G [REDACTED] alleged that PO K [REDACTED] issued him a summons because he was recording the incident on his phone. PO K [REDACTED] stated that when he arrived on the scene, he was trying to determine what happened and was interviewing civilians when Mr. G [REDACTED] tried to push past him. In response, PO K [REDACTED] told Mr. G [REDACTED] to leave the scene, but Mr. G [REDACTED] refused and cursed at him. PO K [REDACTED] issued Mr. G [REDACTED] a disorderly conduct summons for refusing to leave the scene and charged Mr. G [REDACTED] with violating N.Y. Penal law § 240.20 (5).

A person is guilty of disorderly conduct when he obstructs vehicular or pedestrian traffic. N.Y. Penal law § 240.20 (5). As noted above, the acts proscribed by the disorderly conduct statute must be performed with the intent to cause public inconvenience, annoyance or alarm, or recklessly create a risk thereof to constitute an offense. N.Y. Penal Law § 240.20; People v. Square, 20 Misc.3d 1126A (Crim. Ct. N.Y. Cty. 2008) (encl. 17-20).

The first and second video recordings reveal that Mr. G [REDACTED] was standing near PO K [REDACTED] in both videos. However, PO K [REDACTED] did not acknowledge Mr. G [REDACTED] presence or interact with Mr. G [REDACTED] until the situation escalated with Mr. S [REDACTED] PO K [REDACTED] pointed to Mr. G [REDACTED] who was recording the incident after the situation with Mr. S [REDACTED] had escalated. The video corroborates Mr. G [REDACTED] testimony and shows PO K [REDACTED] walking into the camera's view and approaching PO M [REDACTED] PO M [REDACTED] then points his baton in the direction of camera and says something inaudible. PO K [REDACTED] then turns in the direction of the camera. The recording ends shortly thereafter. Given that PO K [REDACTED] issued Mr. G [REDACTED] a summons for blocking pedestrian traffic and because the video does not show any evidence that Mr. G [REDACTED] was indeed obstructing pedestrian or vehicular traffic, or doing so with intent to cause public inconvenience, annoyance or alarm, the CCRB is crediting Mr. G [REDACTED] statement and determined that PO K [REDACTED] did not issue the summons in a good faith pursuit of legitimate law enforcement objectives and it is recommended **Allegation J** be closed as **substantiated**.

Allegation K – Discourtesy: PO M [REDACTED] K [REDACTED] spoke discourteously to S [REDACTED] G [REDACTED]

Mr. G [REDACTED] alleged that PO K [REDACTED] told him, "Get the fuck out of here before you wind up with your friend." Although when Mr. C [REDACTED] put him on the phone with IAB on the incident date, he said that an officer told him to give him his "fucking" identification. Mr. S [REDACTED] said he heard an officer speaking to Mr. G [REDACTED] but he did not know what the officer said to Mr. G [REDACTED] Mr. C [REDACTED] said he did not hear any officer using any obscenities when asking Mr. G [REDACTED] for his identification. PO K [REDACTED] denied making any discourteous comments to any civilians on the scene. Because Mr. G [REDACTED] provided inconsistent statements regarding what he alleged PO K [REDACTED] said to him, the video footage of the incident did not show PO K [REDACTED] speaking discourteously to Mr. G [REDACTED] none of the other civilians on the scene corroborated Mr. G [REDACTED] statement and because PO K [REDACTED] denied the allegation, the CCRB was unable to determine by a preponderance of the evidence whether PO K [REDACTED]

spoke discourteously to Mr. G [REDACTED] Therefore, it is recommended that **Allegation K** be closed as **unsubstantiated**.

Allegation L – Other: PO N [REDACTED] M [REDACTED] failed to prepare a memo book entry as required by Patrol Guide Procedure 212-08.

PO M [REDACTED] memo book did not contain any entries regarding the incident that took place at the corner of Logan Street and Fulton Street in Brooklyn. According to Patrol Guide Procedure 212-08, all uniformed officers below the rank of captain and who are not assigned to permanent administrative or clerical duties are required to prepare and maintain a daily activity report (encl. 25-27). Therefore, since PO M [REDACTED] did not prepare memo book entries regarding this incident, it is recommended that he be cited for **other misconduct**.

Team: 4

Investigator:	_____	_____	_____
	Title/Signature	Print	Date

Supervisor:	_____	_____	_____
	Title/Signature	Print	Date

Reviewer:	_____	_____	_____
	Title/Signature	Print	Date

Reviewer:	_____	_____	_____
	Title/Signature	Print	Date